

# FIVE-CENT FARE FIGHT TAKEN UP IN APPEAL COURT

B. R. T. Extortion for  
Coney Island Trip Is  
on Argument.

## LAW QUOTED AGAINST IT

Franchises Acquired by Mod-  
ern System Give No Power  
to Collect Extra Nickel.

(Special to The Evening World.)

ALBANY, Dec. 1.—The fight to compel the Brooklyn Rapid Transit Company to give the public a five-cent rate over its lines from New York City to Coney Island came before the Court of Appeals to-day in the form of an appeal by Attorney-General Mayer from the decision of the lower courts in favor of the B. R. T. system.

The Court of Appeals is called upon to answer the questions whether the complaint that the railroad company is illegally charging a ten-cent fare violates facts sufficient to constitute a cause of action. The Attorney-General in his argument to the Court said: "The fact that the steam-railway companies mentioned by the complainant, incorporated prior to 1884, while operated as steam surface railroads, were authorized to collect three cents per mile, does not operate to give the defendant, as the lessee of those railroads, any rights which were not given to the defendant by the Legislature in so far as the collection of fares is concerned."

Subject to the Law.

"The steam railroads, by changing their motive power, and by becoming practically an extension of the defendant, have, in effect, become subject to the rule of law established by the Legislature for the collection of fares by the defendant on its road, or on any road line or branch operated by it or under its control."

"The question here is not what rights the steam railway companies may have in the operation of their own railroads and in the collection of fares and rates of fare fixed by their charters—but they cannot by a lease of their property convey to the lessee a right to do that which the Legislature has especially declared the defendant shall not do."

If the Legislature had permitted the defendant to collect a certain rate of fare per mile, it might be authorized to collect the same rate upon its leased lines, and to this extent the lessee would convey the right to collect additional fare, but when the Legislature has enacted a law, by an amendment, concerning and operating a railroad under the provisions of this article shall charge any passenger more than five cents for one ride on the railroads and any point on its road or on any road or line or branch operated by it under its control."

No Power to Raise Fare.

"This power cannot be enlarged by the act of the corporation in leasing a road owned by it, company which was incorporated under statutes and which, operated by its own corporation, would be permitted to collect a certain amount provided by its original charter. The statute clearly contemplated that, as to corporations accepting the privileges of section 28 of the laws of 1884, they would be required to collect the same fare for a continuous trip whether the route extended over the original line of the corporation or over the lines operated and controlled by it, provided that it did not exceed the limits of an Incorporated city or village."

In section 30 of the Railroad law there is no extension of the right of the defendant to collect fare. The defendant can collect the fare and enter into its subsequent leases controlled by the provision that it should not charge more than five cents for one continuous trip anywhere over its lines those under its management and control.

Record Is for One Fare.

An examination of the record of the O'Reilly case shows that two of the railroads under discussion as operated by the American Elevated Railroad Company under lease, namely, the Brooklyn City Railroad Company and the Atlantic Avenue Railroad Company, were incorporated prior to 1884, and yet the effect of the statute was that the Brooklyn Heights Railroad Company must collect passengers over the roads operated by it for a single fare.

The defendant, by leasing the various steam railroads above mentioned, has entered into an agreement as is mentioned in the record when read together with section 30 of the railroad law. Consequently this defendant, under authority of the Griffin and O'Reilly cases, would be obliged to give a free transfer from one railroad to another, and from one to another, provided by it to itself, one of those steam railroads, also leased and operated by it, at an intersecting point, provided there were not a through service.

Is There Such a Right?

"Can it be said then that the defendant has a right to charge a second fare, because, for the convenience of itself or of the public, it operates directly from one place to another, such as Coney Island, without transferring the passengers from one car to another's at points where its railroads intersect? The steam railroads could not do so. The custom of calling on one's friends, however, at the beginning of the new year, is a good habit, and another good habit to start at that time is the use of well-made Postum instead of coffee or spirits.

To the men of the railroad company there was no necessity of doing so, as it came incorporated under an act requiring it to collect five cents for each ride which it was incorporated and which, doubtless, it charged more than the five cents for its voluntary services for the public by its absorption of other systems."

## PROMOTION BY SELECTION.

British Army Likely to Abandon Automatic System.

LONDON, Dec. 1.—The best system of promotion, the automatic, which has been a much-debated question here, as in the United States, appears about to be solved in favor of promotion by selection. The report of the commission appointed to investigate the subject was read to-day.

It unequivocally recommends the abolition of automatic promotion from lieutenants-colonels and the substitution of promotion on the recommendation of a selection board.

# INHERITANCE TAX CASE IS ARGUED

Amount Depending on Tilghman Suit Is Said to Be \$7,000,000.

WASHINGTON, Dec. 1.—In the Supreme Court of the United States today Collector-General Hoyt presented a petition for a re-hearing in the New York inheritance tax case of Collector Oldman vs. F. E. Tilghman, executor of the estate of the late W. Upton. In presenting the matter he said:

"Inheritance taxes actually paid into the Treasury of the United States by estates of persons who died between July 1, 1901, and July 1, 1902, amount in round numbers to \$2,000,000."

Mr. Tilghman and his co-executors are entitled to the taxes paid.

Then, the representatives of every other estate, where death occurred during the year of July 1, 1902, will have reason to believe that they will be liable for the return of the taxes collected from them.

The result reasonably to be expected would be a demand upon the government through the courts and by an appeal to Congress for repayment.

"There are already been filed with the Commissioner of Internal Revenue, and now await action, 245 claims for the refunding of \$2,000,000 in inheritance taxes paid into the Treasury between July 1, 1901, and July 1, 1902. They are based upon the construction of the revenue acts urged by half of Tilghman and adopted by the court below."

# WOMAN OF MYSTERY FOUND DEAD BY GAS

Aged Miss Catharine G. Gore Had Been a Puzzle to Other Lodgers.

An old woman of mystery was found dead on her cot in the hall-bedroom on the third floor of the lodging-house at No. 29 Third avenue, to-day. In her withered hands she clasp a rosary. The gas was turned on in a heater in a corner of the room, the window was tightly closed and the police report recites that the old woman, Miss Catharine G. Gore—committed suicide.

Her death could have been accidental. The stop-cock controlling the flow of gas to the heater is loose and the police are investigating.

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She had introduced to provide for pensions to civil-service employees. Mrs. Osterley, landlady of the house, says that well-known persons in the city often called on the old woman, as she brushed against it.

Miss Gore took lodgings in the house for some time, but occasionally spoke of travelling all over the country. In her room was found a newspaper clipping with a picture of a man named Vinton, and an account of a bill he had introduced to provide for pensions to civil-service employees. Mrs. Osterley, landlady of the house, says that well-known persons in the city often called on the old woman, as she brushed against it.

Victor Shirley, whose picture was found in the old woman's room, is associated with the Association of Civil Service Employees of New York, and a grand-niece of Miss Gore is his wife.

It is after her arrival at the house Miss Gore to Mr. Osterley, the proprietor, that she had come from Montreal, Canada, to see about some landed property she owned in Tenth street in the vicinity of old St. Mark's Church. She had two heavy trunks which have not been opened.

## POLICE BULLETS FOR SUBWAY ROBBERS.

Three pistol shots fired by a man in the early morning of three fleeing men in Bleeker street before daybreak to-day struck the residents at Police Headquarters, half a block distant.

The man with the revolver was Detective-Sergeant John K. Bracken, the leader of the men who had started a "working" a sleeping passenger train in Subway street.

At the Bleeker street station, Bracken fired the three shots under cover, holding one by the collar and shooting the others to walk ahead. Proceeding to the station stairway, Bracken and others gave chase, foot and dash through Bleeker street in the direction of Astorway.

The contrary, we offer

Handsome Axminster Rugs,

the well-woven, long-lasting

sort, in 9x12 sizes, that sell

regularly at \$25.

This week at..... \$20.00

Best Body Brussels Rugs,

built like iron, in a lot

of unusually beautiful pattern

effects, that sell regularly

at \$27.50.

This week..... \$22.50

Carpets Reduced.

Here's a big collection of part

rolls, and patterns we'll no

longer duplicate. We've marked

them down for quick clearance.

Remember, some are the best of

the present season's leading styles. For instance—

Artistic Axminsters—Certi-

tainly you know what attractive

things these are. We offer a

regular \$1.15 yard

grade this week for..... \$85c

Also a genuine \$1.50

yard grade at..... \$1.10

Come early.

# Rugs

## and Carpets.

Throughout the entire country the mill prices of every grade of carpet and rug have gone up! Increased cost of wool is the cause. Notwithstanding the fact that we, too, have been obliged to raise our mill prices, we're not advanced our retail store prices one penny!

To the contrary, we offer

Handsome Axminster Rugs,

the well-woven, long-lasting

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## Dobson's 14th St. & Fifth Ave.

Good office boys come quickly in response to World Help Wants.

NO CONNECTION WITH ANY OTHER STORE  
**SIEGEL COOPER CO.**  
SIXTH AVE., NEW YORK  
J. B. GREENHUT, PRES.

# FATHER SAVES HIS FAMILY FROM FIRE

Passes Children and Governess Through Window to His Neighbor's Flat.

Henry Bohnsalk, a wholesale druggist living at No. 128 East Forty-fifth street, started his neighbors on the second floor of No. 128 by tapping on their window at daylight to-day.

"What's the trouble?" they asked.

"There's fire in my house and I can't get my children downstairs. There's too much smoke. I want to pass them through your windows."

Then Bohnsalk crawled back along the coping into his bedroom and handed to Policeman John McMahon, who had stationed himself at the next window, the representations of every other estate, where death occurred during the year of July 1, 1902, will have reason to do the same.

He was turned from the window.

Bohnkalk was turning from the window.

By this time the house was full of smoke pouring up from a fire that had started from an overheated furnace in the basement and had spread to the woodwork of the dining-room.

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